IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.W.P. No. 14294 of 2006
Date of decision: November 19,2007

Ambala Bus Syndicate Pvt.Ltd. Ropar V. State Transport Appellate Tribunal,Punjab

CORAM: HON'BLE MR.JUSTICE J.S.KHEHAR
HON'BLE MR.JUSTICE SHAM SUNDER

Present: Mr.Baldev Kapoor,Advocate, for the petitioner.
Mr. B.S.Chahal,AAG,Punjab for respondent No.2.
Mr. P.S.Bawa,Advocate for respondent No.3.
Mr. B.S.Giri,Advocate, for respondent No.5.
Mr. R.S.Sharma, Advocate for respondent No.6.

J.S.Khehar,J.(Oral)

Learned counsel for the petitioner states that he does not desire to press the instant writ petition against respondent No.5. The instant writ petition is,accordingly, dismissed as against respondent No.5.

The sole controversy raised in the instant writ petition pertains to the period of limitation for filing the appeal. In this behalf learned counsel for the petitioner has invited out attention to the fact that the State Transport Commissioner heard the parties on 17.8.2004 and passed an order on 30.12.2004. It is also the contention of learned counsel for the petitioner that the date of passing of the final order was not intimated to any of the parties and certainly not to the petitioner. It is also the contention of the learned counsel for the petitioner that the order of State Transport Commission, Punjab dated 30.12.2004 was published in the Motor

Transport Gazette on 15.2.2005 (Annexure P/2) whereas well before the date of publication of the notice in the Motor Transport Gazette, the petitioner had moved an application in the office of the State Transport Commissioner, Punjab for a certified copy of the order dated 30.12.2004, on 12.1.2005. It is also the contention of the learned counsel for the petitioner that the aforestated order was factually supplied to the petitioner on 30.3.2005 whereupon the petitioner preferred an appeal within the period of 30 days under section 89 of the Motor Vehicles Act,1989, on 26.4.2005. The facts narrated in the aforestated paragraph are not disputed by the learned counsel for the respondents.

In view of the decision rendered by a Division Bench of this court in Mavi Bus Service Registered V. State Transport Appellate Tribunal (C.W.P. No.7451 of 2005, decided on 21.5.2007) , we are satisfied that the period of limitation for the purpose of filing an appeal shall commence to run with effect from the date of publication of the order dated 30.12.2004 in the Motor Transport Gazette, on 15.2.2005. If that be so, it is apparent that the petitioner moved an application for furnishing him a certified copy of the order passed by the State Transport Commissioner dated 30.12.2004, on 12.1.2005. Thereafter, the aforestated certified copy was furnished to the petitioner on 30.3.2005. Accordingly, so far as the petitioner is concerned, the period of limitation shall be deemed to have commence to run with effect from 30.3.2005. Since the appeal under reference was preferred by the petitioner on 26.4.2005 (as against the order passed by the State Transport Commissioner dated 30.12.2004), we are satisfied that the appeal had been filed by the petitioner well within the period of limitation, stipulated under section 89 of the Motor Vehicles Act,1989.

The instant writ petition is, accordingly, allowed. The order passed by the State Transport Appellate Tribunal dated 24.8.2006, rejecting the appeal preferred by the petitioner on the basis of limitation is,accordingly, set aside.

The parties are directed to appear before the State Transport Appellate Tribunal on 20.12.2007. The State Transport Appellate Tribunal shall consider the claim of the rival parties on merits and pass an order in accordance with law, as expeditiously as possible.

(J.S. Khehar)
Judge

November 19,2007
sks

(Sham Sunder)
Judge